THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.21256 of 1999

Dated : 09.04.2007

Between:

Smt.Pusuluri Prabhavati

... **PETITIONER**

And:

The District Collector, West Godavari District,
Eluru and others.

....**RESPONDENTS**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.21256 of 1999

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in interfering with the possession of the petitioner in respect of the land in R.S.Nos.98/2E and 322 admeasuring Acs.4.00 and Ac.1.00 respectively, situated at Ganapavaram village of Buttaigudem Mandal as arbitrary and illegal and against the provisions of Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 1959 (for short "the Regulations") and for a consequential direction to the respondents to allow the petitioner to cultivate the said land.

Petitioner claims to be the owner of the land in question. Originally, the said land was purchased by her father, by name Alluri Rattaiah, and his brother from one Sri Chintalapati Bapiraju, under a registered sale deed dated 30.03.1951. During the family partition, the

said land fell to the share of the petitioner's father. Subsequently, the petitioner's father gifted the said land to the petitioner towards 'pasupu kunkuma' at the time of her marriage in the year 1958 and since then the petitioner claims to have been in possession and enjoyment of the said land. While so, on 03.02.1970, the then Special Deputy Tahsildar filed a complaint before the second respondent-Special Deputy Collector (Tribal Welfare) K.R.Puram, stating that the land in question is situated in the Agency Area and the same is in possession of non-tribals, which is contrary to the provisions of the Regulations, and therefore, sought a direction for eviction of the petitioner and for assignment to the eligible landless poor tribals. Pursuant to the said complaint, second respondent issued a show cause notice to the petitioner on 10.12.1991 calling upon her to explain as to why she shall not be ejected from the land in question. In response to the said notice, the petitioner's husband appeared before the second respondent and submitted all the facts to him. Considering the material on record, the second respondent, by an order dated 05.09.1992, held that the land in question was never held by tribals and that there was no violation of the provisions of the Regulations, and thereby dismissed the complaint filed by the Special Deputy Tahsildar. No appeal was preferred against the said order, and therefore, the said order of the second respondent has become final. Be that as it may, after lapse of seven years from the order of the second respondent, based on the alleged representation of the tribals, the third respondent, by proceedings dated 08.06.1999, recommended to the Special Deputy Tahsildar, Tribal Welfare, K.R.Puram, for filing cases against the petitioner's father and others. The third respondent is also alleged to have been interfering with the possession and enjoyment of the petitioner. Aggrieved thereby, this writ petition is filed.

Despite service of notice, the respondents have not chosen to file counter.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

Learned counsel for the petitioner has drawn my attention to one of the judgments of a Division Bench of this Court in ***Chintalapati Ramalinga Raju V. District Collector, Eluru, West Godavari District,***[1] wherein in identical circumstances the Division Bench held that the authorities have no power to review the order passed under the Regulations. In this context, it may be relevant to extract the relevant portion in the said judgment, and it is thus:

> "The matter arises under the provisions of the A.P.Scheduled Areas Land Transfer Regulations, 1959 (for short 'The Regulations'). The learned Single Judge has dismissed the writ petition on the ground that the apprehension of the petitioner may not be real. But, it is evident from the proceedings dated 4.11.1998 in Rc.No.230 of 1997 (Supt.) of the Mandal Revenue Officer, Buttaigudem mandal addressed to the Special Deputy Tahsildar, Tribal Welfare, K.R.Puram that action was sought to be taken against the petitioner on the ground that the judgment rendered by the Special Deputy Collector, Tribal Welfare hithereto dated 5.9.1981 is doubtful. But, it is a well settled law that when a judgment is rendered under the Regulations, it becomes final and there is no review of the same. It is not disputed that the order dated 5.9.1981 rejecting the application for eviction of the petitioner-appellant herein on the ground that unauthorized possession was rejected and the said order had become final. It is also not disputed by the learned Government Pleader, Social Welfare that there is no review provision in the A.P.Scheduled Areas Land Transfer Regulations, 1959. In fact that legal position is well settled by series of judgments of this Court."

In the light of the said settled proposition of law, this Court has no hesitation to hold that the power exercised by the third respondent in recommending to take action against the petitioner's father based on the alleged representations of tribals is definitely without power.

Accordingly, the writ petition is allowed, and the third respondent

is hereby directed not to interfere with the possession of the petitioner in respect of the land in question, without following due process of law. There shall be no order as to costs.

09.04.2007

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[1] 2000(4) ALD 443